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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 743,233	01/08/2001	Herbert Eichenauer	MO-6093 LEA	7911

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PITTSBURGH, PA 15205

EXAMINER
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MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/743,233

Applicant(s)

EICHENAUER, HERBERT

Examiner

Art Unit

Jeffrey C. Mullis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-10 and 14-16 is/are allowed.
- 6) ☒ Claim(s) 12 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s): \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

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This Office action is in response to applicant's RCE request of 2-28-03.

All previous rejections have been withdrawn.

Claims 12 and 17 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as filed does not disclose "adding to the polymerization mixture a second mixture that contains said persulfate compound and a second amount of monomers, in an amount quantities of 0.05 to 1.5 wt. percent relative to the weight of said second amount said second amount being 5 to 90% relative to the weight of the total amount of said monomers entailed in the polymerization" as is recited in Part "iii" of claim 17. This limitation is therefore new matter. Although it is noted that adding persulfate in amounts of 0.05-1.5 wt. percent is disclosed by the specification, the specification specifically discloses that this amount of persulfate is added to the material resulting from 10-95 wt. percent of monomer, i.e. the persulfate is added after 10-95 wt. percent of monomer as set out in Part "iii" at the bottom of page 9 of applicant's specification. Furthermore the level of "said second amount" of 5-90% is not disclosed in the specification at all. Furthermore the specification as filed

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does not disclose adding "a second mixture" such as the one set out in "iii" of claim 17.

Claims 12 and 17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is intended by the phrase "adding to the polymerization mixture" as recited in Part "iii" of claim 17 in that it is not stated which polymerization mixture the "second mixture" is added to. Thus claim 17 may be interpreted such that the polymerization of "iii" may refer to the "polymerization mixture" in the phrase "adding to the polymerization mixture a first mixture" in Part "iii" or may refer to the polymerization mixture resulting from the process described in "iii".

It is not clear what the phrase "in an amount quantities of" since this phrase makes no sense. Furthermore it is not clear if the 0.05 to 1.5 wt. percent refers to the amount of persulfate compound or second amount of monomers or both.

Applicant's arguments filed 2-28-03 have been fully considered but they are not deemed to be persuasive.

Applicant argues that support for claim 17 is present in original claim 11. However the Examiner has reviewed original claim 11 and original claim 11 appears to bear little resemblance to newly presented claim 17 since this claim does not refer to a

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mixture of monomers in Part "iii" or contain the range of 5-90% and also requires a sequential addition of initiator i.e. azo initiator is added first followed by persulfate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

April 30, 2003

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